APPENDIX

Revenue Act of 1936, c. 690, 49 Stat. 1648:

Sec. 111. DETERMINATION OF AMOUNT OF, AND RECOGNITION OF, GAIN OR LOSS.

(a) *Computation of gain or loss.* The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in section 113(b) for determining gain, and the loss shall be the excess of the adjusted basis provided in such section for determining loss over the amount realized.

(b) *Amount realized.* The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received.

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Sec. 117. CAPITAL GAINS AND LOSSES.

(a) *General Rule.* In the case of a taxpayer, other than a corporation, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset shall be taken into account in computing net income:

100 per centum if the capital asset has been held for not more than 1 year;

80 per centum if the capital asset has been held for more than 1 year but not for more than 2 years;

60 per centum if the capital asset has been held for more than 2 years but not for more than 5 years;

40 per centum if the capital asset has been held for more than 5 years but not for more than 10 years;

30 per centum if the capital asset has been held for more than 10 years.

(b) *Definition of capital assets.* For the purposes of this title, "capital assets" means property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

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Detroit City Charter, Title VIII, c. 1:

Sec. 1. The council of the city of Detroit is hereby authorized to take private property for the use and benefit of the public within the limitations of the state constitution, and to institute and prosecute proceedings for that purpose. Provided, that this chapter shall not apply to cases where proceedings have already been instituted under any laws in force prior to the taking effect of this charter; and Provided, further, that nothing herein contained shall be held to abridge the right of said city to take private property for the use and benefit of the public under other acts to which resort may be had for said purpose.

Sec. 2. Such proceedings may be commenced and prosecuted under this chapter whenever the common council shall have declared a public improvement to be necessary in the municipality, and shall declare that it deems it necessary to take private property, describing it, for such public improvement designating it, and that the improvement is for the use or benefit of the public. It shall, by resolution direct the corporation counsel to institute the necessary proceedings in behalf of the municipality in the recorder's court of said city, to carry out the object of the resolution in regard to taking private property for the city. Before the institution of such proceedings, the council shall, if it be intention to assess any part of the damages awarded in such proceedings upon a special or local district, declare by resolution such purpose and fix such district, embrac-

ing only such real esate as in its opinion will be specially benefited by the improvement and it shall describe such district with reasonable certainty by well known boundaries, so that all persons owning real estate in such district may readily ascertain the facts.

* * *

Sec. 8. The jury shall determine in its verdict the necessity for the proposed improvement and for taking such private property for the use or benefit of the public for the proposed improvement, and in case they find such necessity exists, they shall award to the owners of such property and others interested therein such compensation therefor as they shall deem just. If any such private property shall be subject to a mortgage, lease, agreement or other lien, estate or interest, they shall apportion and award to the parties in interest such portion of the compensation as they shall deem just. (Sec. 3793, Mich. Comp. Laws [1929].)

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Sec. 10. The verdict of the jury may be set aside by the court and a new trial ordered as in civil suits at law in the circuit courts of this state. Amendments either in form or substance may be allowed in any paper, petition, process, record or proceedings, or in the description of the property proposed to be taken, or the name of any person, whether contained in the resolution passed by the common council or otherwise, whenever the amendment will not interfere with the substantial rights of the parties. Any such amendment may be made after, as well as before, judgment confirming the verdict of the jury.

Sec. 11. Motions for a new trial or to arrest the proceedings shall be made within two days after the rendition of the verdict, unless further time is allowed by the court; and if no such motion is made, or, being made, is overruled, the court shall enter an order or judgment confirming the verdict of the jury; and such judgment or confirmation, unless reversed by the supreme court, shall be final and

conclusive as to all persons interested therein. (Sec. 7209, Mich. Comp. Laws [1929].)

Sec. 12. Any person whose property may be taken (and any such taxpayer, party to the proceedings under this chapter), considering himself aggrieved, may appeal from the judgment of the court confirming the verdict of the jury, by filing in writing, with the clerk of said court, a notice of such appeal within five days after the confirmation, and within the same time serving a copy thereof on the corporation counsel and filing a bond in said court, to be approved by the judge thereof, conditioned for the prosecution of said appeal to judgment, and the payment of all costs, damages and expenses that may be awarded against him in case the judgment or confirmation shall be affirmed. Such appeal shall be perfected within the same time and prosecuted as an appeal in chancery, as near as may be, subject to the provisions of this chapter.

Sec. 16. Within one year after confirmation of the verdict of the jury, or after the judgment of confirmation shall on appeal be confirmed, the common council shall set apart and cause to be provided in the treasury, unless already provided, the amount required to make compensation to the owners and persons interested for the private property taken as awarded by jury, and shall in the resolution setting apart and providing said sum, if not already provided, direct the city treasurer to pay to the persons respectively entitled to the money so set apart and provided, to each his or her proportion, as ascertained and awarded by said verdict. And it shall be the duty of the treasurer to securely hold such money in the treasury for the purpose of paying for the property taken, and pay the same to the persons entitled thereto, according to the verdict of the jury, on demand, and not pay out the money for any other purpose whatever. The council shall provide the necessary money by tax levy and/or by the issuance and sale of general public improvement bonds, and/or by the issuance and sale of special assessment bonds and/or as it may otherwise provide; Provided, that the council

shall not pay or cause to be paid any such award or judgment by borrowing from moneys or funds in the treasury which have been raised, received or appropriated for other purposes. Whenever the necessary sum is actually in the treasury for such purpose, the treasurer shall make and sign duplicate certificates, verified by his oath, showing that the amount of compensation awarded by the jury is actually in the treasury for such purpose, the treasurer shall make and sign duplicate certificates, verified by his oath, showing that the amount of money is in the treasury for payment of the award for the private property taken in the case, giving the title of the case, and shall cause one of the certificates to be filed in the office of the clerk of the court in which the proceedings were had and the other to be filed with the city clerk, which certificate shall be prima facie evidence of the matters herein stated. Whenever the amount of the compensation is in the treasury and thus secured to be paid, the council may enter upon and take possession of and use such private property for the purpose for which it was taken, and may remove all buildings, fences and other obstructions therefrom. In case of resistance or refusal on the part of anyone to the council or its agents and servants entering upon and taking possession of such private property for the use and purpose for which it was taken, at any time after the amount of the compensation aforesaid is actually in the treasury ready to be paid to those entitled thereto, the council, by the corporation counsel, may apply to the court, and shall be entitled, on making sufficient showing, to a writ of assistance to put the city in possession of the property. (As amended November 3, 1931. In effect November 10, 1931.)

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Sec. 19. The council shall not have power to discontinue proceedings hereunder after the rendition of the verdict of the jury, but it may direct the corporation counsel to move for a new trial or to arrest the proceedings, or to take an appeal to the supreme court, and in any

such case the same proceedings shall be taken as are hereinafter prescribed in the case of like proceedings on the part of any respondent, except that no bond shall be required, nor shall the municipality be required to pay the clerk of the recorder's court fees.

Michigan Compiled Laws (1929):

Sec. 14555. Interest on judgment or decree. Sec. 20. When execution shall be issued upon any judgment or decree, interest on the amount thereof from the time of entry of the same until such amount shall be paid, shall be collected at the rate of five (5) per cent per annum: *Provided,* That on a judgment or decree rendered on any written instrument having a different rate, if such rate was legal at the date of the execution of such instrument, the interest shall be computed at the rate specified in such instrument.